

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEVIN WOODRUFF, No. C 10-03268 CW (PR)
Petitioner, ORDER OF DISMISSAL
v.
MERION AWOKE, et al.,
Respondents.

This case was commenced when Petitioner, a resident at a federal Bureau of Prisons halfway house in Oakland, filed a document captioned "Habeas Corpus" and paid the \$5.00 filing fee. However, the Court determined that the petition did not challenge the lawfulness of the execution of Petitioner's sentence in this district. Rather, it went entirely to the conditions of his placement in the halfway house. In an Order dated October 18, 2010, the Court stated, "A federal civil rights complaint for damages under Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971), rather than a federal habeas petition, is the proper way to raise such claims." (Oct. 18, 2010 Order at 1 (citing Boyce v. Ashcroft, 251 F.3d 911, 914 (10th Cir.)).) The Court dismissed the petition with leave to amend and directed Petitioner to "file a civil rights complaint on the attached civil rights complaint form, stating his claims for relief, if he wishes to go forward with this action as a civil rights action." (Id. at 2.) He was further informed that the failure to file a completed civil rights complaint would result in the dismissal of this action without prejudice. The Court gave Petitioner thirty days from the date of the Order to file his complaint.

1 The time for Petitioner to file his complaint for damages
2 under Bivens has passed, and no such complaint has been filed.
3 Accordingly,

4 IT IS HEREBY ORDERED that this action is dismissed for failure
5 to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

6 All pending motions are TERMINATED. The Clerk of the Court
7 shall enter judgment in accordance with this Order and close the
8 file.

9 IT IS SO ORDERED.

10 Dated: 11/30/2010



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

WOODRUFF et al,
Plaintiff,

Case Number: CV10-03268 CW

v.

CERTIFICATE OF SERVICE

AWOKE et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 30, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kevin Woodruff 56195-097
1512 Harrison St.
Fairfield, CA 94533

Dated: November 30, 2010

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk

United States District Court
For the Northern District of California